

U.S. Patent Appl. No. 09/725,178—Mockel et al.

## II. REMARKS

### Preliminary Remarks

Based upon the foregoing amendment and following remarks, reconsideration and allowance of the present application are respectfully requested. Claims 1, 2, 5-7, and 21-33 are currently pending in the application. Claims 1, 5-7, 22, 23, 27--33 are allowed. Claim 2 remains at issue.

This response is timely filed. Should the Patent Office determine that additional fees are required for consideration of this response, permission is hereby granted to charge such fees to Deposit Account No. 033975.

The applicants request entry of the foregoing amendment, as it will place the application in condition for allowance. The applicants do not intend by these or any amendments to abandon subject matter of the claims as originally filed or later presented, and reserve the right to pursue such subject matter in continuing applications.

### Patentability Remarks

#### Rejection Pursuant to 35 U.S.C. §112, First Paragraph

On page 3 of the official action, the examiner maintained the rejection of claim 2 under 35 U.S.C. §112, first paragraph, for allegedly lacking proper written descriptive support. Specifically, the examiner asserted that the specification does not adequately describe the subset of genus sequences that are "naturally occurring" or isolated from *Corynebacterium glutamicum* so that one of skill in the art would be able to predict naturally occurring claimed sequences from all *C. glutamicum* cells.

Solely to expedite prosecution and without prejudice to the applicants' right to seek broader claims in a continuing application, the applicants, by the foregoing amendment, have canceled claim 2. Therefore, the applicants submit that the rejection of claim 2 under 35 U.S.C. §112, first paragraph has been overcome and should be withdrawn.

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### III. CONCLUSION

In view of the foregoing, all pending claims are now believed to be in form of allowance, and such action is hereby solicited. If any point remains at issue which the examiner feels may be best resolved through a personal or telephone interview, please contact the undersigned at the telephone number below.

Respectfully submitted,  
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